

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**SOVERAIN SOFTWARE LLC,**

**Plaintiff**

**v.**

**AMAZON.COM, INC.**

**Defendant**

§  
§  
§  
§  
§  
§  
§

**6:04-CV-14**

**ORDER**

Before the Court is Soverain's Motion to Strike Amazon's Second Amended Answer (Docket No. 149) and Soverain's Motion for Protective Order (Docket No. 150), both of which the Court **GRANTS IN PART** and **DENIES IN PART**.

The Court **STRIKES** without prejudice paragraphs 98-106, 171, 172, 176, and 187-190 because they incorporate new allegations of inequitable conduct. Amazon may file a motion for leave to amend the complaint to include these allegations.

The Court **STRIKES** paragraphs 166 and 167 because they fail to comply with the Court's December 3, 2004 order and fail to satisfy Federal Rule of Civil Procedure Rule 9(b)'s particularity requirement. Paragraph 166 fails because it does not state who engaged in the inequitable conduct and does not identify the relevant internal correspondence and publications. Paragraph 167 fails because it does not identify the documents Treese may have read or the email communication at issue.

The Court finds all other paragraphs satisfy the pleading requirement stated in the Court's previous order and Rule 9(b). Those paragraphs that refer to specific documents as the source of

Amazon's allegations adequately comply with the Court's previous order because the particularities of the allegations are clearly set forth in the pleading's text. Accordingly, the Court **DENIES** Soverain's motion as to all other paragraphs.

In light of this ruling, the Court **GRANTS** Soverain's Motion for Protective Order to the extent it requests that Amazon's Second Amended Answer remain sealed until such time as Soverain is required to respond to Amazon's Second Amended Answer. At that time, the Court will order the clerk to unseal the answer if Soverain has not file a motion for protection.

**So ORDERED and SIGNED this 4th day of February, 2005.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**